



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/501,216	07/12/2004	Jordan Knez	2515 LN. eh	3771

21254 7590 09/29/2005

MCGINN INTELLECTUAL PROPERTY LAW GROUP, PLLC
8321 OLD COURTHOUSE ROAD
SUITE 200
VIENNA, VA 22182-3817

EXAMINER

BRAHAN, THOMAS J

ART UNIT	PAPER NUMBER
----------	--------------

3652

DATE MAILED: 09/29/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/501,216	KNEZ, JORDAN	
	Examiner	Art Unit	
	Thomas J. Brahan	3652	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 July 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-19 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>10/12/04</u> . | 6) <input type="checkbox"/> Other: _____ |

RS

Art Unit: 3652

1. The following is a quotation of the second paragraph of 35 U.S.C. § 112:
The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which applicant regards as his invention.
2. Claims 1-19 are rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The claims are generally narrative and indefinite, failing to conform with current U.S. practice. They appear to be a literal translation into English from a foreign document. **For example:**
 - a. In claim 1, it is unclear as to what would or would not be considered as included in the term "and the like".
 - b. In claim 1, lines 2 and 3, it is unclear as to whether applicant is including the baskets roller and disks as part of the claimed combination of elements, or just a frame which could have these elements. The elements appear to be only functionally recited in the claim.
 - c. In claims 3 and 4, the term "the mounting plate" lacks antecedent basis within the claims.
 - d. In claims 4, 10 and 11, the term "a centrally placed frame" appears to be a redundant inclusion of one of the frames from claim 1.
 - e. In claim 5, the term "the mounting plates" lacks antecedent basis within the claims.
 - f. The range of the width to thickness ratio attempted to be recited in claim 8 is not understood.
 - g. In claims 7 and 15-19, the limitation "e.g. duraluminum or spring steel" fails to positively recite the structure of the claimed invention.
3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. § 102 that form the basis for the rejections under this section made in this Office action:
A person shall be entitled to a patent unless --
(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.
4. The following is a quotation of 35 U.S.C. § 103(a) which forms the basis for all obviousness rejections set forth in this Office action:
(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.
5. Claims 1-6 and 9-14, as best understood, are rejected under 35 U.S.C. § 102(b) as being anticipated by Wittek (cited by applicant). Wittek shows an apparatus for retrieving golf balls comprising


Art Unit: 3652

retrieving sections (15) which have a frame for one or more receptacle baskets (42) and a retrieving roller with a number of retrieving disks (30), characterized in that the frames are interconnected to a connection rail (130/56/130) in side-by-side relationship, and that the connection rail, as a whole, is readily flexible in the vertical plane and rigid or substantially inflexible in the horizontal plane. The frames have mounting plates (54) with screw connections (60 and/or 64) to the connection rail (130/56/130), as recited in claim 2. The connection rail has multiple sections (portions; note the term section is broad) interconnected a mounting plates (54/58) as recited in claims 3 and 9. A draw bar (88) is connected at a centrally placed frame, as claims 4, 10 and 11 are best understood. Wheels (86, 144) are mounted to the connection rail, as recited in claims 5, 6 and 12-14.

6. Claims 7, 8 and 15-19, as best understood, are rejected under 35 U.S.C. § 103(a) as being unpatentable over Wittek in view of Fuller. Wittek shows the basic claimed golf ball retriever, but varies from the claims by having the connection bar (130/56/130) formed as a hinged member instead of a resilient member. Fuller shows a similar towed device with a biased resilient bar (22) that follows the contours of the ground. It would have been obvious to one of ordinary skill in the art at the time the invention was made by applicant to modify the golf ball retriever of Wittek by using a flexing connection rail instead of a hinged connection rail, as to have the biased flexing of the rail have it follow the contours of the ground, as taught by Fuller. The material chosen for the bar, duraluminum or spring steel, as possibly being recited in claims 7 and 15-19, would have been an obvious design consideration, since it has been held to be within the general skill of a worker to select a known material on the basis of suitability for the intended use as a matter of obvious design choice, see *In re Leshin*, 125 USPQ 416.

7. Kazanjian, Landmann and Tucek are cited as showing related ball retrievers.

8. An inquiry concerning this communication or earlier communications from the examiner should be directed to Thomas J. Brahan whose telephone number is (571) 272-6921. The examiner's supervisor, Ms. Eileen Lillis, can be reached at (571) 272-6928. The new fax number for all patent applications is (571) 273-8300. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Questions regarding access to the Private PAIR system, should be directed to the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Thomas J. Brahan
Primary Examiner
Art Unit 3652